



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-803

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles from the People's Republic of China: Notice of Court Decision Not in Harmony and Notice of Amended Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On June 14, 2012, the United States Court of International Trade (the Court) issued final judgment in *Tianjin Machinery Imp. & Exp. Corp. and Shandong Huarong Machinery Co., Ltd., v. United States*, sustaining the Department of Commerce's (the Department) *Second Remand Results*.¹ Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results and is amending the final results of the antidumping duty review on heavy forged hand tools, finished or unfinished, with or without handles from the People's Republic of China (PRC) with respect to the margins assigned to Shandong Huarong Machinery Co., Ltd. (Huarong) and Tianjin Machinery Import & Export Co.'s (TMC) covering the period February 1, 2003 through January

¹ See Final Results of Redetermination Pursuant to *Tianjin Machinery Imp. & Exp. Corp. and Shandong Huarong Machinery Co., Ltd., v. United States*, Consol. Court No. 05-00522, (January 4, 2011), May 4, 2011. (*Second Remand Results*) see also *Tianjin Machinery Imp. & Exp. Corp. and Shandong Huarong Machinery Co., Ltd., v. United States*, Consol. Court No. 05-00522, Slip Op. 12-83 (June 14, 2012) (*Tianjin v. United States*).

30, 2004.²

EFFECTIVE DATE: June 25, 2012

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312.

SUPPLEMENTARY INFORMATION:

The Department published the *Final Results* on September 19, 2005. On August 28, 2007, the Court remanded the *Final Results*, and instructed the Department to either explain or reconsider its determination of the adverse facts available (AFA) rate applied to TMC's and Huarong's sales of bars/wedges, and the AFA rate applied to TMC's sales of picks/mattocks.³ On March 11, 2008, the Department filed its *First Remand Results* pursuant to the Court's August 28, 2007 order.⁴ On January 4, 2011, the Court sustained in part, and remanded, in part, the Department's *First Remand Results*. Specifically, the Court remanded the AFA rates applied to Huarong's bars/wedges, and to TMC's pick/mattocks. On May 4, 2011, the Department filed the *Second Remand Results*, in which the Department recalculated the AFA rates applied to Huarong and TMC. As a result, the Department revised the antidumping margin for Huarong's sales of bars/wedges to 47.88 percent, and revised the antidumping margin for TMC's sales of picks/mattocks to 32.15 percent. On June 14, 2012, the Court sustained the Department's *Second Remand Results*.⁵

² See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005) ("*Final Results*").

³ See *Tianjin Machinery Import & Export Corp and Shandong Huarong Machinery Co., Ltd. v. United States*, Court No. 05-00522, Slip Op. 07-131 (August 28, 2007).

⁴ *Final Results of Redetermination Pursuant to Tianjin Machinery Import & Export Corp. ("TMC") and Shandong Huarong Machinery Co., Ltd. ("Huarong") v. United States and Ames True Temper*, Consol. Court No. 05-00522, Slip Op. 07-131 (August 28, 2007), March 11, 2008 ("*First Remand Results*").

⁵ See *Tianjin v. United States*.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s June 14, 2012, order constitutes a final decision of the Court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for Huarong and TMC for the subsequent and most recent period during which the respondents were reviewed.⁶

Amended Final Determination

Because there is now a final court decision, we are amending the *Final Results* with respect to Huarong and TMC’s margin for the period February 1, 2003 through January 30, 2004. The revised weighted-average dumping margins are as follows:

Exporter	Percent Margin
Huarong	47.88
TMC	32.15

In the event the Court’s ruling is not appealed, or if appealed, upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by Huarong and TMC using the revised

⁶ See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review* and *Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 54269 (September 14, 2006).

assessment rates calculated by the Department in the *Second Remand Results*.

This notice is issued and published in accordance with sections 516(A)(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

____ June 28, 2012 _____
Date

[FR Doc. 2012-16575 Filed 07/02/2012 at 4:15 pm; Publication Date: 07/06/2012]